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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,424	04/15/2004	Douglas Willard	13952-2	6505

7590 12/17/2004

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,424	Applicant(s) WILLARD, DOUGLAS	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 10-26-04 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-5, 7-8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,586,688 to Hartman et al.

Referring to claim 1, Hartman et al. discloses a fishing rod support – see figures 1-3, the support comprising, a restriction member – at 3, having an opening – see the upper portion of item – 3 in figures 1-3, configured to receive a portion of a fishing rod – 11 – see figure 1, wherein the opening is configured to substantially limit rotational movement of the fishing rod about a substantially vertical support axis passing through the fishing rod portion – see figures 1-3, and a retaining member – at 2, operatively coupled to the restriction member – see figures 1-3, and configured to releasably inhibit vertical movement of the fishing rod portion – see figures 1-

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3, wherein the retaining member is movable between a substantially closed position – see figure the solid lines of item 2 in figure 1, in which the opening is closed and upward movement of the fishing rod portion along the vertical support axis and thus removal of the fishing rod from the fishing rod support is inhibited – see figure 1, and an open position – see the dotted lines in figure 1 and figures 2-3, in which the opening is open and upward vertical movement of the fishing rod portion is substantially uninhibited in order to effect removal of the fishing rod from the fishing rod support – see figures 1-3.

Referring to claim 2, Hartman et al. discloses the restriction member – at 3, comprises at least one substantially vertically aligned fishing rod guide – see the sidewalls next to the opening in figures 2-3.

Referring to claim 4, Hartman et al. discloses the retaining member – at 2, is substantially tubular – see figures 1-3.

Referring to claim 5, Hartman et al. discloses the restriction member – at 3, is substantially tubular – see figures 1-3.

Referring to claim 7, Hartman et al. discloses a body portion – at 4-5, operatively coupled to the restriction member – at 3 – see figures 1-3.

Referring to claim 8, Hartman et al. discloses a ground engager – at 12 or 13, configured to releasably secure the support to the ground – see columns 3 lines 14-29.

Referring to claim 10, Hartman et al. discloses the support has a mount – see at – 6 in figures 1-3.

Referring to claim 11, Hartman et al. discloses a pocket – see inside items 2-3 in figures 1-3, for receiving a fishing rod handle – see figure 1, wherein the pocket is substantially aligned

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with a pocket axis and wherein the pocket axis forms an angle of deflection to the vertical – see figure 1, wherein the body of the support further comprises a neck portion – see at 30,32, and wherein the neck portion forms an angle which is substantially supplementary to the angle of deflection – see figures 1-3.

Referring to claim 12, Hartman et al. discloses the mount is configured to engage the pocket – see figures 2-3.

Referring to claim 13, Hartman et al. discloses the retaining member – at 2, is moved from the closed position to the open position by moving the retaining member vertically upwards along the support axis – see figures 1-3.

Referring to claim 14, Hartman et al. discloses the substantially vertical aligned rod guide is a substantially vertical slot – see the interior of item – 3 in figures 1-3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman et al. as applied to claim 8 above, and further in view of U.S. Patent No. 4,656,774 to Terrill. Hartman et al. does not disclose the ground engage is an auger bit. Terrill does disclose the ground engager is an auger bit – at 14,16 – see for example figure 1. Therefore it would have been obvious to one

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of ordinary skill in the art to take the device of Hartman et al. and add the auger bit ground engager of Terrill, so as to allow for the device to be securely held to the ground while allowing for the device to be easily removed from the ground.

Response to Arguments

4. Applicant's arguments with respect to claims 1-2, 4-5 and 7-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER

12/14/04